

EXHIBIT E

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION
4 IN RE: ETHICON, INC., PELVIC) MASTER FILE NO.
 REPAIR SYSTEM PRODUCTS) 2:12-MD-02327
5 LIABILITY LITIGATION) MDL NO. 2327
)
6 THIS DOCUMENT RELATES TO THE)
 FOLLOWING CASES IN THE WAVE 1)
7 OF MDL 200:)
 LISA THOMPSON, et al.,) CASE NO.
8) 2:12-cv-01199
)
 Plaintiff,)
9)
 V.)
10)
 ETHICON, INC., ET AL.,)
11) Defendants.)

12 DEPOSITION OF KIMBERLY H. ALLISON, M.D.
13

14 DATE: THURSDAY, MARCH 17, 2016
15 TIME: 12:58 P.M.
16 LOCATION: STANFORD PARK HOTEL
17 100 El Camino Real
18 Menlo Park, California
19
20

21 Reported by:
22 LUCY CARRILLO-GRUBBS, RMR, CRR, RPR, CRP, CSR
 License No. 6766
23
24
25

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Kimberly H. Allison, M.D.

1 BE IT REMEMBERED THAT, pursuant to the laws
2 pertaining to the taking and use of depositions,
3 and on THURSDAY, MARCH 17, 2016, commencing at the
4 hour of 12:58 p.m. thereof, at the STANFORD PARK
5 HOTEL, 100 El Camino Real, Menlo Park, CA
6 California, before me, LUCY CARRILLO-GRUBBS, CRP,
7 RMR, CRR, RPR, CSR No. 6766, a Certified Shorthand
8 Reporter in and for the State of California,
9 personally appeared

10

11 KIMBERLY H. ALLISON, M.D.

12

13 being called as a witness by the Defendants, who,
14 having been by me first duly sworn, was thereupon
15 examined and interrogated as hereinafter set forth.

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17 (Defendants' Exhibit No. 1, 2, 3, 4 and 5 were
18 marked for identification.)

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EXAMINATION

21

BY MR. VOUDOURIS:

22

Q. Can you state your full name for the

23

record, please?

24

A. Kimberly Heller Allison.

25

MR. VOUDOURIS: Before we start today, I just

1 want to put something on the record.

2 As you know, Ms. O'Dell, it was our
3 position that since Dr. Allison has never given a
4 deposition in an Ethicon case or any kind of TVT
5 case, and does have a report that has a general
6 opinion section, that we believe that we are
7 entitled to a three-hour expert deposition on her
8 general opinions.

9 You have objected to that in two of the
10 e-mails, both to Mr. Snowden, I believe one was on
11 March 15th, and another one on March 16th, where
12 you said we will not make Dr. Allison available for
13 a general expert three-hour deposition.

14 Is that still your position today?

15 MS. O'DELL: Yes, it is. The agreement in the
16 MDL between counsel for Ethicon and the Plaintiffs'
17 Steering Committee has been that for experts who
18 have been disclosed as general causation experts,
19 that they are subject to a three-hour deposition on
20 their general opinions.

21 For experts who have not been disclosed as
22 a general causation expert but only as a case
23 specific expert, like Dr. Allison, the agreement of
24 the parties was limited to two hours per case.

25 So our position is, as you know, that

1 Dr. Allison has not been disclosed as a general
2 causation expert. She has only been disclosed as a
3 case specific expert; and, therefore, for her
4 deposition in the Thompson, Phelps and Barker
5 cases, the limitation is two hours per case.

6 MR. VOUDOURIS: And you understand from
7 previous e-mails that that is not the defense's
8 opinion and we're going to file a motion on that
9 issue, just so you know.

10 Second part of housekeeping, prior to last
11 evening we were anticipating taking your deposition
12 in at least four case specific cases, maybe a
13 fifth, and we just were informed last night that
14 you would no longer be giving case specific
15 opinions in the Deborah Joplin case; is that
16 correct?

17 MS. O'DELL: That is correct.

18 MR. VOUDOURIS: Okay.

19 Q. Do you understand, Dr. Allison, that to be
20 correct?

21 A. Yes.

22 Q. And you're also not going to be giving any
23 expert testimony in the Maria --

24 MS. O'DELL: It's Quijano.

25 MR. VOUDOURIS: Quijano.

1 MS. O'DELL: And as -- Dr. Allison will not be
2 giving case specific opinions in the Quijano case,
3 based on the decision of counsel.

4 I would say further --

5 MR. VOUDOURIS: And I have copies of everything
6 if you want to see it.

7 Go ahead.

8 MS. O'DELL: Further, Dr. Allison has been
9 disclosed not only in the Thompson, Phelps and
10 Barker matters, and -- and I'm counsel of record in
11 those matters, but she's also been disclosed as a
12 case specific expert in numerous cases that are
13 represented by Blazen, Game, Birch & Girard, and
14 those cases, as I understand, have been deferred to
15 another setting that's not yet been decided.

16 BY MR. VOUDOURIS:

17 Q. Dr. Allison, I've handed you what we've
18 marked as Defendants' Exhibit C, can you identify
19 that for us?

20 A. Yes. This is the spreadsheet of my case
21 specific findings on the pathology and review of
22 records.

23 Q. You created this spreadsheet?

24 A. Yes.

25 Q. And the purpose of creating this

1 Q. All right.

2 What was the product that you were
3 involved with in that deposition?

4 A. Bard slings.

5 Q. And have you -- you've given other
6 deposition testimony against Bard; is that correct?

7 A. Correct.

8 Q. How many times have you testified in cases
9 against Bard?

10 MS. O'DELL: Just to clarify, Peter, you're
11 talking about like a day-long deposition or are you
12 talking about the number of cases?

13 MR. VOUDOURIS: Well, we can break that down.

14 Q. How many depositions have you given in
15 cases against Bard?

16 MS. O'DELL: And I would just clarify the
17 record, those depositions were done in composite so
18 it was one deposition, it was multiple cases, so I
19 don't know -- your question's a little unclear.

20 THE WITNESS: Yeah.

21 So I think there have been two
22 depositions, different time points; is that
23 correct? And there were multiple patients,
24 multiple cases in each deposition.

25 BY MR. VOUDOURIS:

1 Q. Do you remember how many cases or patients
2 those involved?

3 A. Ten to 15. I could -- again, I could look
4 at my records.

5 Q. All right.

6 And then you'll let us know?

7 A. Yes.

8 Q. Have you testified in court?

9 A. No.

10 Q. Do you have any plans to?

11 A. No.

12 Q. I'm sorry?

13 A. No.

14 Q. The three patients that we're going to be
15 talking about over the next two days, I just want
16 to make sure, have you seen any of those patients?

17 A. No.

18 Q. Treated them in any way?

19 A. No.

20 Q. Talked to any of their doctors?

21 A. No.

22 Q. Read any of the other expert reports in
23 those cases?

24 A. I think they've been made available to me,
25 but I may have read parts of some.

1 Q. I'm sorry, you have to keep your voice up.

2 A. I may have read parts of some of them.

3 Q. In what case or cases?

4 A. I believe Barker.

5 Q. You read an expert report in Barker?

6 A. Yes.

7 Q. Do you know who it was authored by?

8 A. Felix.

9 Q. Do you know Dr. Felix?

10 A. No.

11 Q. Do you know him by reputation?

12 A. No.

13 Q. Do you know what type of pathologist he
14 is?

15 A. OB-GYN.

16 Q. Okay.

17 And would I be correct in saying that your
18 specialty in pathology is breast?

19 A. And GYN.

20 Q. And we'll talk about your experience with
21 GYN in a moment.

22 Any other reports?

23 A. I read the Longacre report that was -- I
24 don't believe it was case specific, maybe it was.

25 Q. Do you know Dr. Longacre?

1 A. Yes.

2 Q. I imagine you do.

3 What is her position at Stanford?

4 A. She's a professor of pathology.

5 Q. And you are an associate professor?

6 A. Associate professor.

7 Q. So in terms of the hierarchy, she's higher
8 up on the totem pole, so to speak, than you?

9 A. Yes, she's been there a lot longer.

10 Q. Right.

11 What's her position at Stanford?

12 A. Professor of pathology. She has many
13 positions, I mean, many other roles,
14 administrative-wise.

15 Q. Right.

16 A. So...

17 Q. Is she known as a GYN pathologist at
18 Stanford?

19 A. She is, and we codirect the breast and GYN
20 fellowship together.

21 Q. I'll talk about that in a minute.

22 Do you trust Dr. Longacre?

23 A. Yes.

24 Q. Do you believe she's a competent and
25 capable GYN pathologist?

1 A. Yes.

2 Q. Would you send patients to her to have
3 their GYN path read?

4 A. Yes.

5 Q. You value her opinion?

6 A. Yes.

7 Q. And she's well respected in the GYN
8 pathology community?

9 A. Yes.

10 Q. Any other reports?

11 A. I'm not recalling. I definitely read
12 those two.

13 Q. Anything else that you can remember?

14 A. No.

15 Q. All right.

16 Any expert reports in those three cases?

17 MS. O'DELL: Other than the one she just
18 mentioned.

19 MR. VOUDOURIS: I'm sorry.

20 Q. Plaintiff's expert reports.

21 A. Besides the pathologist ones?

22 Q. Well, you named two defense pathologists,
23 you named Dr. Felix and Dr. Longacre, who you know
24 very well.

25 A. Yeah, yeah, yeah.

1 No, I don't think I have.

2 Q. When did you read Dr. Felix's report?

3 A. I was just perusing it. It was made
4 available last night, so I was just perusing it an
5 hour ago.

6 Q. Okay.

7 Did you finish it?

8 A. I did not read it in-depth.

9 Q. Okay.

10 Did you have any disagreements with it, as
11 you sit here today?

12 A. Well, yes, of course I did. I mean, we
13 have different opinions on the -- on the cases,
14 yes.

15 Q. Okay.

16 How do you differ from Dr. Felix's
17 opinions?

18 A. Well, shall we go through them step by
19 step or can I see the report so we can discuss them
20 and I can --

21 Q. Did you bring it with you?

22 A. No.

23 Q. Okay.

24 How about Dr. Longacre?

25 A. I didn't bring that one with me either.

1 You're welcome to ask her about anything
2 in her report.

3 BY MR. VOUDOURIS:

4 Q. You do mention here that you're the
5 codirector at the Stanford Breast/GYN Pathology
6 Fellowship; is that accurate?

7 A. Yes.

8 Q. Is there a director?

9 A. A director that --

10 Q. At Stanford -- sorry.

11 A. Teri Longacre.

12 Q. So Teri Longacre sits above you in that
13 position; is that correct?

14 MS. O'DELL: Object to the form.

15 THE WITNESS: Correct, she was there before I
16 came to Stanford in 2013. She had that fellowship
17 established, and when I arrived, she asked me to
18 codirect it with her.

19 BY MR. VOUDOURIS:

20 Q. She was part of your hiring process,
21 correct?

22 A. Yes.

23 Q. Now, at Stanford, do you review GYN
24 pathology?

25 A. Not currently. They have needed me more

1 in the breast pathology, but I originally applied
2 for the job which was posted as a GYN pathologist,
3 and they hired me based on my expertise in both
4 breast and GYN. They've needed people to fill in
5 more on the breast service, and so that's what I've
6 done.

7 Q. You came to Stanford in January of 2013, I
8 believe?

9 A. Yes.

10 Q. Since January 2013, have you signed out
11 any GYN path at Stanford?

12 A. No, I have not.

13 I've done frozen sections on GYN
14 pathology, which is intraoperative consultations.

15 Q. Right, but that's for cancer, correct?

16 A. No. They're not all for cancer.

17 Q. What else are they for?

18 A. Intraoperative evaluations are for "what
19 is this" questions, a surgeon wants to know what
20 they have in the OR, immediately, and so they'll
21 send tissue to us to freeze and rapidly tell them.

22 Q. How often do you do that?

23 A. Every single day that I'm on service.

24 Q. And have you ever asked to evaluate a
25 frozen section regarding vaginal tissue while at

1 Stanford?

2 A. Vaginal tissue, there's a lot of GYN
3 frozen, but vaginal tissue is not an intraoperative
4 consultation.

5 Q. So the answer to my question would be no?

6 A. I think it would be no, yes.

7 Q. When was the last time you looked at -- or
8 signed out, I'm sorry, a report on vaginal tissue
9 that was not a frozen section?

10 MS. O'DELL: Are you talking about in the -- in
11 the course of her clinical --

12 MR. VOUDOURIS: Yes.

13 MS. O'DELL: -- practice?

14 MR. VOUDOURIS: I'm sorry.

15 THE WITNESS: Probably would have been in 2012,
16 before I came. I -- you know.

17 BY MR. VOUDOURIS:

18 Q. To the best of your knowledge, have you
19 ever looked at mesh from a TVT product as part of
20 your clinical practice?

21 A. I've looked at explanted mesh as part of
22 my clinical practice in the past. I was not paying
23 attention during those years I was looking at those
24 cases with, you know, what type of procedure it had
25 been removed from, so I don't know.

1 Q. You don't know?

2 A. I don't know.

3 Q. I apologize, we got a little sidetracked.

4 We were going through Dr. Longacre's
5 report, and you were up to page 7, I believe.

6 A. Yes.

7 Q. Do you agree with everything that she said
8 before page 7?

9 A. I would really rather not have to disagree
10 on a case on a statement-by-statement basis with my
11 colleague. I'm happy to talk about my case
12 specific findings and if you have disagreements
13 with them, to go through them, but it's putting me
14 in a very awkward position.

15 I -- we all disagree with each other in
16 practice on occasion, but this is a very awkward
17 position for me to be in.

18 Q. Well, it's going to be an awkward position
19 regardless, Dr. Allison. So is there anything that
20 you disagree with up to page 7 in Dr. Longacre's
21 report?

22 MS. O'DELL: And, Dr. Allison, if you -- if
23 you -- if he's asking you to go through every line
24 and word, then feel free to just take a few minutes
25 and to do that.

1 THE WITNESS: I need a break.

2 MS. O'DELL: Okay. Let's go off the record.

3 (Recess taken from 1:34 p.m. to 1:56 p.m.)

4 MR. VOUDOURIS: It's -- we've been off the
5 record now for how long, court reporter?

6 THE REPORTER: From 1:34 to 1:56.

7 BY MR. VOUDOURIS:

8 Q. And, Dr. Allison, you went outside to
9 collect yourself, correct?

10 A. Yes.

11 Q. Are you ready to proceed?

12 A. Yes.

13 Q. Okay.

14 And you understand the defense didn't put
15 you in this position, okay? You're going to be
16 offering testimony that's going to be directly
17 adverse to and opposite to the chairman of the
18 department of GYN pathology at Stanford.

19 Do you understand that?

20 A. Yes.

21 Q. And are you ready to proceed?

22 A. Yes.

23 Q. Okay.

24 We're going through Dr. Longacre's report,
25 right?

1 Q. Do you disagree with that statement?

2 MS. O'DELL: And if you don't have an opinion
3 about it, you're welcome to say that.

4 MR. VOUDOURIS: Objection.

5 THE WITNESS: I mean, I told you my opinion.

6 MR. VOUDOURIS: Stop, stop, excuse me --

7 THE WITNESS: You're trying to make me say --

8 THE REPORTER: I'm sorry, I can't take two of
9 you at the same time.

10 BY MR. VOUDOURIS:

11 Q. Go ahead, Dr. Allison.

12 MS. O'DELL: She's answered your question.

13 MR. VOUDOURIS: I don't think she has.

14 Q. Go ahead.

15 MS. O'DELL: I believe she has.

16 THE WITNESS: I told you what I would say
17 instead of this statement, so it's not that I a
18 hundred percent disagree with the statement, I
19 would state it in a different way.

20 BY MR. VOUDOURIS:

21 Q. Have you ever contacted the FDA and told
22 them that you don't think that polypropylene is
23 safe and effective in a few patients or however you
24 worded it?

25 A. No, and I don't think Dr. Longacre

1 contacted them either to ask them if it was safe
2 and effective.

3 Q. That wasn't the question.

4 The question was you, have you ever
5 contacted the FDA --

6 A. No. Of course not.

7 Q. -- and told them that polypropylene is not
8 safe and effective in the treatment of stress
9 urinary incontinence?

10 A. No.

11 Q. Continue, please.

12 A. So she says: "There's no correlation
13 between the degree of fibrosis and inflammation in
14 the presence of pain and/or mesh exposure."

15 So there are parts I agree with and parts
16 I disagree with about that statement.

17 The degree of fibrosis and inflammation, I
18 agree that that hasn't been systematically linked
19 to patients with pain versus patients without pain
20 or patients with exposure versus patients without
21 exposure.

22 However, I don't think that that means
23 that the patients who have those symptoms, that it
24 wasn't caused by the presence of the mesh and the
25 fibrosis and inflammation in those patients.

1 Q. And is that based on your experience?

2 A. My experience as a pathologist?

3 Q. Yes.

4 A. Yeah, my experience looking at 80 to 100
5 of these cases of explants and reading the
6 literature and understanding these are known
7 complications of this procedure.

8 Q. You've looked at 80 to 90 what?

9 A. Mesh explant tissues.

10 Q. Okay.

11 How many TVT explant tissues have you
12 looked at?

13 A. Again, you asked me that question earlier,
14 and I don't know the exact percentage.

15 Q. Do you have any idea what the percentage
16 is?

17 A. No.

18 Q. And in the -- I'm sorry, what was the
19 number, 80 to 90 of mesh explants?

20 MS. O'DELL: I think it's what she said.

21 THE WITNESS: I said 80 to 100, yes.

22 MR. VOUDOURIS: Okay.

23 Q. Where did you get those cases from?

24 A. Well, in my prior practice at University
25 of Washington, I probably saw ten to 20, just

1 explants being removed.

2 And then I saw I think 60 or so cases when
3 I was first working on the Bard product litigation,
4 that were sent to me just to review. Some of them
5 weren't even cases I was opining on, just to look
6 at what kinds of findings there were in mesh
7 explants, so that I could have more exposure to it.

8 Q. I've had an opportunity to look at some of
9 your depositions in the Bard cases, and you
10 testified that when you were at University of
11 Washington you saw maybe ten to 12; is that
12 accurate?

13 A. Sure, that's between ten and 20.

14 Q. All right.

15 Of those ten to 20 patients, did all of
16 them experience pain?

17 A. So when you're making a surgical pathology
18 report, you're cognizant of what symptom -- why --
19 why something's being removed when the clinician is
20 asking you to explain a symptom.

21 So if there was a biopsy for a mass and
22 they want to know what is the mass, we explain to
23 them what is the mass.

24 So for -- for most foreign material
25 removal, the clinician already knows this is the

1 reason I'm removing this. I've made a decision as
2 the surgeon that I think this is causing a problem,
3 whether it's pain, erosion, dysfunction of some
4 kind. It's time to take this out, this foreign
5 body out.

6 And so -- so as a pathologist, your job is
7 to document that something was removed for them.
8 It's not the same question as is being asked of me
9 here, in these cases. It's linking the pathology
10 with the clinical symptoms.

11 Q. Okay.

12 I believe my question was pretty simple,
13 the ten to 12 cases that you looked at at
14 University of Washington of mesh explants, did all
15 of those women complain of pain?

16 MS. O'DELL: Objection to the form.

17 THE WITNESS: We didn't always have the
18 clinical information about why things were being
19 removed.

20 BY MR. VOUDOURIS:

21 Q. So you don't know?

22 A. I don't know.

23 Q. All right.

24 The other meshes you've looked at have all
25 been part of litigation, correct?

1 A. Correct.

2 Q. And they were provided to you by
3 plaintiffs?

4 A. Yes.

5 Q. Okay.

6 Is it fair for me to assume that all of
7 those patients complained of pain?

8 A. I think many of them did, yes.

9 Q. Okay.

10 As we sit here today, can you tell me any
11 of them who didn't?

12 A. I believe some were probably just for
13 erosion or other dysfunction.

14 Q. Do you know that or are you just guessing?

15 A. I don't -- I don't have a spreadsheet of
16 all of the cases I've ever looked at and have a --
17 of course I'm just guessing.

18 Q. All right.

19 A. These are all educated guesses you're
20 asking me to make.

21 Q. What statement were you at, or sentence?

22 A. The degree of fibrosis and inflammation.
23 So I think I addressed that one.

24 Q. Anything else in 4 you agree with?

25 MS. O'DELL: Object to form.

1 THE WITNESS: I'm not going to go through each
2 sentence in great detail because we'll be here way
3 too long. I think it would be better if I just
4 scanned through and said which ones I disagree with
5 in a major way. And I think I reserve the right to
6 go back and look at some of the details and say
7 whether I agree or disagree.

8 BY MR. VOUDOURIS:

9 Q. Dr. Allison.

10 A. Yes.

11 Q. The task that you've been asked to do, and
12 Ms. O'Dell has asked you to do too, is to go
13 through here line by line and tell us where you
14 disagree with the head of GYN pathology at
15 Stanford, Dr. Longacre.

16 A. Should I read the entire statement to you,
17 then?

18 Q. Yeah, keep reading. You don't have to
19 read out loud, read to yourself.

20 A. Okay.

21 Q. And when you get to a place where you
22 disagree with Dr. Longacre, you tell us, and you
23 tell us the basis for that disagreement.

24 MS. O'DELL: And, Dr. Allison, you're free to
25 read out loud if you'd like to, you're free to

1 THE WITNESS: It's not his theories, per se,
2 but the evidence he presents for the tree barking
3 effect that I can see under the microscope.

4 BY MR. VOUDOURIS:

5 Q. Other than you qualifying it a different
6 way, am I correct?

7 MS. O'DELL: Object to the form.

8 THE WITNESS: Can you state it again for me?

9 (The Reporter read back as follows:

10 "Question: Other than you qualifying
11 it a different way, am I correct?")

12 THE WITNESS: Before that.

13 MS. O'DELL: I think she meant the statement
14 before that.

15 (The Reporter read back as follows:

16 "Question: Is it fair to say that
17 it's his theories on degradation
18 upon which you rely for your
19 specific case opinions?")

20 MS. O'DELL: Object to the form.

21 THE WITNESS: It's the -- yeah, the evidence
22 that he presents, yes, I wouldn't call them
23 theories. He's published about them and provided
24 evidence that was accepted in peer reviewed
25 literature.

1 BY MR. VOUDOURIS:

2 Q. Have you ever dictated in a path report
3 that you saw degradation of mesh as part of your
4 clinical practice?

5 A. His papers were describing this entity in
6 the last several years, so no, I've not.

7 Q. Have you told Dr. Longacre that you
8 believe mesh in vivo degrades?

9 A. We do not speak -- we have not spoken
10 about this litigation.

11 Q. Okay. Continue.

12 A. On page 6 she talks about nerve twigs in
13 the first paragraph, and mentions: "The presence
14 of nerves or nerve twigs in and around the mesh
15 material does not necessarily (and, in fact, is
16 unlikely to) reflect the presence of increased pain
17 sensation."

18 And I am of the opinion that the
19 integration of nerve fibers into the scarring
20 around these mesh fibers more likely than not
21 contributes to the pain in these patients, and
22 would emphasize that there are plenty of sensory
23 nerves in that area that it is likely to affect.

24 Q. All right.

25 This is your opinion, but see, as an

1 expert, you have to have a basis for your opinion.

2 So what's the basis for that opinion?

3 MS. O'DELL: Object to the form.

4 You asked her what she disagreed with,
5 she's told you.

6 MR. VOUDOURIS: Yeah.

7 MS. O'DELL: So don't lecture her about being
8 an expert.

9 MR. VOUDOURIS: I've asked you three times now,
10 maybe four, to stop.

11 MS. O'DELL: Just --

12 MR. VOUDOURIS: Just stop.

13 Q. Go ahead, Dr. Allison.

14 MS. O'DELL: Just fine, I'll keep making my
15 objections. Stop lecturing the witness.

16 THE WITNESS: Your question is why do I think
17 I'm qualified -- I'm a pathologist.

18 BY MR. VOUDOURIS:

19 Q. No, it wasn't my question.

20 You're a breast pathologist, right, you're
21 not a GYN pathologist?

22 A. I'm trained in GYN and breast pathology,
23 I'm trained in pathology as well.

24 Q. And you do not --

25 A. Nerves are not unique --

1 A. Yes, I consult with him for brain tumors
2 most often.

3 Q. So you've -- you've reached out to
4 Dr. Vogel and consulted with him on brain tumors;
5 is that correct?

6 A. Well, I don't read out brain tumor
7 pathology, but he consults with me when he has
8 metastatic breast cancer cases in the brain, so we
9 do -- we do look at cases together occasionally.

10 Q. Would you have -- would you feel
11 comfortable referring a patient or a friend to
12 Dr. Vogel to review their slides?

13 A. Yes.

14 Q. For any type of nerve pathology?

15 A. Yes.

16 Q. By the way, in the three case specific
17 reports that you're going to talk about, were you
18 able to visualize nerve receptors on any of those
19 slides?

20 A. Nerve receptors?

21 Q. Yes.

22 A. What do you mean by that?

23 Q. You don't know what a nerve receptor is?

24 A. A neurotransmitter, a neuro- -- the
25 receptor?

1 Q. Yeah.

2 A. It's smaller than I could see with a light
3 microscope.

4 Q. Okay.

5 So the answer to my question would be, no,
6 you didn't identify any, correct?

7 A. No, of course not.

8 Q. All you did was H&E and S100 stains?

9 A. H&E and S100 stains were provided to me, I
10 didn't perform them.

11 Q. Okay.

12 I want you to turn to page 6 of
13 Dr. Vogel's report. And again, you don't dispute
14 that he's an expert in the field of neuropathology,
15 do you?

16 A. Of course not.

17 Q. All right.

18 Page 6, fourth line down, can you read
19 that -- that sentence that starts with pathologists
20 and then has a dash?

21 A. "Pathologists - even those trained and
22 experienced in neuropathology such as myself - are
23 not able to examine a histology section under the
24 light microscope and determine whether nerve twigs
25 in the field are sensory, motor or autonomic in

1 nature."

2 Q. Keep reading.

3 A. "Stains such as immunohistochemistry for
4 S100 and neurofilament, which can aid in the
5 identification of parts of nerves, specifically
6 Schwann cells and axons respectfully, are incapable
7 of differentiating between sensory, motor and
8 autonomic nerves. Moreover, S100 and neurofilament
9 do not identify sensory receptors."

10 Q. Do you disagree with those sentences?

11 A. No.

12 Q. Okay.

13 Can we go back to Dr. Longacre again.

14 I believe we're on page 5. The second
15 full paragraph.

16 A. Page 5 or 6? I think 6.

17 Q. Okay, even better.

18 A. So on page 7, second paragraph: "The mesh
19 material as itself as a foreign object and the body
20 reaction to the mesh do not significantly damage
21 the tissues in this anatomic location."

22 I mean, I've seen cases where skeletal
23 muscle is scarred and fibrosed and in the
24 surrounding tissue with mesh kind of embedded
25 within it, and I think that that's damaging the

1 tissue in that anatomic location.

2 So I disagree with that statement as an
3 all-encompassing statement. I think in some
4 patients the mesh has -- is causing very
5 problematic symptoms, and that reaction is -- the
6 reaction that occurs is not causing the same
7 symptoms in every patient, but it doesn't detract
8 from the women who are experiencing the sequelae of
9 the mesh eroding and causing dyspareunia.

10 Should I move on?

11 Q. Yes.

12 Before you do, I'm sorry to interrupt.

13 Was it part of your medical school, your
14 residency, your training fellowship -- where did
15 you go to medical school?

16 A. New York Medical College.

17 Q. Okay.

18 As part of any of that training there,
19 were you taught how to look at a nonneoplastic
20 tissue on a slide and correlate it with clinical
21 symptoms of pain?

22 MS. O'DELL: Object to the form.

23 THE WITNESS: We're taught to correlate
24 clinical symptoms in general with pathologic
25 findings, and that's part of our training as

1 pathologists.

2 MR. VOUDOURIS: That wasn't my question. Could
3 you read it back, please.

4 (The Reporter read back as follows:

5 "Question: As part of any of that
6 training there, were you taught
7 how to look at a nonneoplastic
8 tissue on a slide and correlate
9 it with clinical symptoms of pain?")

10 THE WITNESS: There wasn't a course on pain and
11 correlation with pathology, no. It's not as common
12 a clinical symptom to produce a pathologic specimen
13 as other findings are, so it's for any pathologist
14 probably the minority of clinical symptoms that
15 we're correlating with.

16 But in this case we are being asked to do
17 that.

18 BY MR. VOUDOURIS:

19 Q. So that the answer to my question is "no"?

20 MS. O'DELL: She answered your question.

21 THE WITNESS: Let me think about the
22 specific -- more specific scenarios.

23 So for a patient who's experiencing bone
24 pain and they do a bone biopsy, we would be
25 describing the findings that would be causing the

1 bone pain, whether it be cancer or Paget's disease
2 or osteomalacia or some other fracture. So there's
3 an example for you of a time it might correlate
4 with pain.

5 If a woman had a lot of pain during labor
6 and she has a condition where her placenta has
7 embedded too deep into the uterus, that would be a
8 reason for pain.

9 Endometriosis causes pain and when we look
10 under the, you know, microscope at the findings in
11 one of those patients, we diagnose endometriosis,
12 which correlates with the symptom of pain.

13 BY MR. VOUDOURIS:

14 Q. So Dr. Longacre testifies that at Stanford
15 the medical students, the residents and the fellows
16 in pathology are not instructed or taught or told
17 that they're able to look at a nonneoplastic tissue
18 on a slide and correlate it with a clinical
19 symptom, is she wrong?

20 MS. O'DELL: Object to the form.

21 THE WITNESS: She may be just looking at it
22 from a different angle and not thinking about
23 examples that I just gave.

24 BY MR. VOUDOURIS:

25 Q. You mean angle as a GYN pathologist at

1 Stanford?

2 MS. O'DELL: Object to form.

3 THE WITNESS: She is the GYN pathologist at
4 Stanford, yes.

5 MR. VOUDOURIS: Okay.

6 Q. Keep going, please.

7 A. She mentions scar form- -- this is on page
8 7. It's a sentence on its own without supporting
9 sentences. "While scar formation does occur, it is
10 typically minimal and does not lead to deformation
11 of the mesh."

12 Others have described in the literature
13 deformation of mesh. And from my personal
14 experience, looking at cases of mesh removed, I've
15 seen -- in one of the patients we'll talk about
16 today, I've seen extensive scarring and surgery --
17 the operative reports describe extensive scarring,
18 it's why this mesh is hard to remove in its
19 entirety. So I don't agree with the statement that
20 it's minimal in the patients that have issues that
21 require removal of the mesh.

22 Q. In the patients that you've seen that have
23 been sent to you by plaintiffs' counsel?

24 A. The ones that have symptoms and are --
25 yes.

1 Q. And --

2 A. Need examination.

3 Q. -- what literature supports your
4 disagreement with Dr. Longacre?

5 A. The deformation and scarring? Oh, there's
6 plenty of those.

7 Let's see. 2013, Rogo Rogowski, we could
8 look at that one if you want, or do you want me
9 just to list?

10 Q. Just list.

11 A. Okay.

12 Garcia-Urena, 2007; Tunn, T-u-n-n, 2007.
13 I have ultrasound data looking at decreases in mesh
14 size after insertion. Animal studies have also
15 shown, like Feola in 2014, F-e-o-l-a. And then
16 there's been literature describing the severity of
17 the scarring and how irreversible that can be, such
18 that it can continue to cause symptoms even after
19 it's removed.

20 And I list Crosby with a C, 2014;
21 Bendavid, 2014; and Rogo-Gupta, 2013.

22 Q. Anything else?

23 A. No.

24 Q. Continue, please.

25 A. She talks about mesh erosion at the end of

1 page 7 stating it's a rare complication, but a
2 known complication, and that there are a multitude
3 of factors, including infection inherent poor
4 vascular supply, and poor or impaired wound
5 healing.

6 And I guess I don't disagree with any of
7 the statements she's made, but I think it is caused
8 by the mesh and it's -- it is a known complication,
9 so actually I agree with that statement.

10 Q. What sentence are you up to, Dr. Allison?

11 A. I'm on page 9, I'm trying to --

12 Q. Why don't we stop there, because that
13 talks about pelvic organ prolapse mesh implants --

14 A. Yeah.

15 Q. All right, so we're done, you've gone
16 through this, at least up to the page -- the
17 section on pelvic organ prolapse mesh implants and
18 told us all the places where you disagreed with
19 Dr. Longacre, is that accurate?

20 A. The most -- ones that stand out most to
21 me, yes.

22 BY MR. VOUDOURIS: Okay.

23 Let's talk about the Thompson case.

24 (Defendants' Exhibit No. 8 was marked for
25 identification.)

1 BY MR. VOUDOURIS:

2 Q. Dr. Longacre (sic), we're handing you
3 Defendants' Exhibit 8.

4 Can you tell us what that is?

5 A. My name is Dr. Allison.

6 Q. I'm sorry, Dr. Allison.

7 A. This is a photograph of -- it's an image
8 of a photograph I took of material that was removed
9 from patient Thompson.

10 Q. And this correlates with which pathology?

11 A. So this is from her 2010 -- let me get my
12 spreadsheet. Her third, I believe, revision.

13 So this is from part A, the squamous
14 mucosa that was removed during the procedure where
15 they removed -- attempted to remove all the mesh
16 that was present in the patient, because she had
17 continued symptoms of erosion and urinary
18 retention.

19 Q. I'm going to hand you -- you might have it
20 in front of you, you're welcome to use mine, I have
21 a red pen and I have a blue pen.

22 A. Okay.

23 Q. And if you can, on Exhibit 8, please
24 highlight for us all the things that you think are
25 abnormal on that slide and what you're going to

1 the review of her medical records, the clinical and
2 pathological literature and your training and
3 experience?

4 MR. VOUDOURIS: Objection.

5 THE WITNESS: Yes, I used all of that.

6 BY MS. O'DELL:

7 Q. And when you considered Ms. Thompson's
8 case, did you consider other possibilities for the
9 cause of her symptoms?

10 MR. VOUDOURIS: Objection, asked and answered.

11 THE WITNESS: Yes. The -- yeah, earlier I was
12 asked about differential diagnoses, if that's what
13 you mean.

14 MS. O'DELL: Yes.

15 Q. Tell us what would -- what -- as a
16 pathologist, what would be involved in the
17 differential diagnosis of a patient like
18 Ms. Thompson?

19 A. The differential diagnosis in a patient
20 like her is very short, given that, as I mentioned
21 before, the presence of a vaginal erosion would be
22 very rare. And, you know, typically in diabetics,
23 ulcers and erosions are caused by pressure ulcers.
24 I'd never heard of a pressure ulcer in the vagina.
25 This is clearly caused by a foreign object, which

1 she had removed, because of the symptoms she was
2 having.

3 So the list became very short very quickly
4 to implicating mesh as the cause of her symptoms.

5 MR. VOUDOURIS: Objection, lack of foundation.

6 MS. O'DELL: I have no further questions,
7 Dr. Allison.

8 -O-

9 FURTHER EXAMINATION

10 BY MR. VOUDOURIS:

11 Q. Dr. Allison, I have a few follow-up
12 questions.

13 Did any of the opinions that you gave me
14 over the two hours that we talked going through
15 Dr. Longacre's report actually that dealt with TVT
16 and TVT-O, are any of your opinions different now
17 because we're talking about a TVT-O product?

18 A. No.

19 MS. O'DELL: Object to the form.

20 BY MR. VOUDOURIS:

21 Q. Has any urologist, gynecological surgeon
22 at Stanford come down to your office with a vaginal
23 slide after a mesh excision and asked you to
24 correlate any symptom with what you found on the
25 slide?

1 A. No. And I doubt any pathologist has had
2 that occur.

3 MR. VOUDOURIS: Okay.

4 MS. O'DELL: Nothing further.

5 (Recess.)

6 MR. VOUDOURIS: Going back on the record.

7 Q. Dr. Allison, I'm going to hand you what we
8 marked as Defense Exhibit 1, could you identify
9 that, please?

10 A. This is the notice of deposition.

11 Q. Had you seen that prior to today?

12 A. Yes.

13 Q. When did you see that?

14 A. I don't recall. I saw it again this
15 morning, though.

16 Q. All right.

17 There's an exhibit A attached, did you
18 have an opportunity before the deposition started
19 to look at Exhibit A?

20 A. Attached?

21 MS. O'DELL: I would just note for the record
22 that plaintiffs filed responses and objections to
23 Exhibit A to the notice and we reassert those
24 objections at this time.

25 MR. VOUDOURIS: When did you file those? I

1 never saw anything?

2 MS. O'DELL: Last week. What's today?

3 MR. VOUDOURIS: Today is Thursday, the 17th.

4 MS. O'DELL: Yeah. It was either late last
5 week or early this week.

6 THE WITNESS: I don't have that.

7 MS. O'DELL: Yeah.

8 BY MR. VOUDOURIS:

9 Q. And Dr. Allison, as you're briefly looking
10 through that and take the time that you need, but
11 do you believe that you've -- other than the
12 objections stated by counsel -- provided or brought
13 the information that's requested?

14 A. Not all of it, no.

15 MS. O'DELL: Dr. Allison has -- has brought
16 information to the deposition in keeping with the
17 objections that were filed on the March 15th
18 document No. 92 in --

19 MR. VOUDOURIS: Did she bring billing records?
20 I'm sorry to interrupt.

21 MS. O'DELL: We've not been billed for her work
22 in the Thompson matter, or Barker or Phelps for
23 that.

24 BY MR. VOUDOURIS:

25 Q. So you have no bills for those cases; is

REPORTER'S CERTIFICATE

I hereby certify that the witness in the foregoing deposition, KIMBERLY H. ALLISON, M.D., was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth, in the within-entitled cause; that said deposition was taken at the time and place herein named; that the deposition is a true record of the witness' testimony as reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer.

I further certify that I am not interested in the outcome of the said action, nor connected with, nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand 3/21/2016.



LUCY CARRILLO-GRUBBS RPR

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STATE OF CALIFORNIA